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IN THE

Supreme Court of the United States

No. 1050

CITY OF DETROIT,
a Michigan Municipal Corporation,
and
COUNTY OF WAYNE,
a Michigan Constitutional Body Corporate,
Petitioners and Appellants,
vs.
GENERAL MOTORS CORPORATION,
a Delaware Corporation,
Respondent and Appellee

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF MICHIGAN

BRIEF FOR RESPONDENT IN OPPOSITION

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OPINIONS BELOW

The opinion of the Supreme Court of Michigan, the State Court of last resort, appears at 372 Mich. 234 and at 126 N.W. 2d 108. The opinion of the trial court (Wayne County, Michigan Circuit Court) appears in the Appendix of

Appellants separately filed by Petitioners, commencing at page 74a.[1]

JURISDICTION

The statutory jurisdictional requisites are adequately set forth in the Petition.

QUESTIONS PRESENTED

Respondent cannot accept the recitation of Questions Presented for Review, five in number, set forth on page 3 of the Petition. The reasons follow.

First, the questions posed by Petitioners were not really the questions considered below, were not questions upon which decision below was based, and were and are not necessary for decision.

Second, the questions are inaccurately stated and contain assumptions that are incorrect. For example, the recitation is made that the taxes at issue are "non discriminatory".[2] For further example, Question 4 assumes that State law authorized the assessment made; the holding of the Supreme Court of Michigan is exactly to the contrary.

What is obvious is that the Supreme Court of Michigan never reached any of the questions recited by Petitioners.

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[1] Page references followed by the letter "a" are to this separately bound "Appendix of Appellants" used in the Court below. Petitioners have filed nine copies of such document pursuant to section 4 of Rule 21. Page references followed by the letters "Ax" are to Appendix A attached to the Petition, and those followed by the letters "Bx" are to the Appendix to this Brief in Opposition.

[2] Whether the taxes at issue did discriminate against the United States and Respondent was one of the issues initially presented. (Second Amended Declaration, paragraphs 9, 9(A) and (M), 11a-13a; cf. *Phillips Chemical Company v. Dumas Independent School District*, 361 U.S. 376 (1960).) However, neither the trial court or the Supreme Court of Michigan found it necessary to decide that issue because each determined that the taxes were not authorized by state law.

The question actually considered by the *Supreme Court of Michigan* and upon which decision turned was this:

1. Did the *statutes of Michigan* and *Charter of Detroit*, in the year 1959, authorize Petitioners, purely as a matter of state law, to impose and collect taxes from Respondent because Respondent was in possession of United States-owned personal property?

The real question which Petitioners seek to have reviewed *by this Court* is this:

2. Where Michigan's court of last resort has definitively declared that the law of Michigan does not authorize assessment and taxation of limited interests in personal property owned by the United States to the possessor thereof, does this Court's prior decision in *City of Detroit v. Murray Corporation*, 355 U.S. 489 (1958) *require* that such taxes be imposed and collected despite the absence of authority in state law for such method of taxation?

CONSTITUTION, STATUTES AND CHARTER PROVISIONS INVOLVED

Constitutional, statutory and charter provisions related to the issues are too lengthy to set forth here. Except as noted below, they are set forth in pertinent full text in the Appendix annexed to this Brief, and their citations are:

Constitution of Michigan, 1908, Article X, Sections 3, 4, 7 and 21

Act 206, Public Acts of Michigan of 1893 (General Property Tax Act), Compiled Laws of Michigan, 1948, as amended, Sections 211.1 *et seq.*

Section 211.24, Ibid.

Section 211.40, Ibid.

Section 211.47, Ibid.

Section 211.53, Ibid. (printed at page 1aa of Appendix A to Petition)

Act 266, Public Acts of Michigan of 1959, Compiled Laws of Michigan, 1948, as amended, Section 211.14.

Charter of the City of Detroit, 1918, as amended.
- Title VI
- Chapter II
  - Section 1
  - Section 5
  - Section 7 (printed at p. 2aa of Appendix A to Petition)
- Chapter IV
  - Section 1
  - Section 26 (printed at pp. 2aa-3aa of Appendix A to Petition and in part to p. 6bb, *infra*)
  - Section 27.

STATEMENT

These two cases were instituted on February 4, 1960 by Respondent General Motors Corporation against Petitioners City of Detroit and County of Wayne, and their respective treasurers, to recover $100,396.70 City of Detroit and School District of the City of Detroit taxes and $16,065.61 County of Wayne taxes, both paid by Respondent in January, 1960 and both arising from an assessment made for the 1959 tax year against Respondent in the amount of $2,354,630 (75a).

The reason and basis for the assessment made against Respondent was the presence in Respondent's Cadillac

Motor Car Division Plant in the City of Detroit of certain machinery owned by the United States. Such machinery had been in such Plant from the year 1952 through the year 1959, but no assessment or taxation with respect thereto had ever been attempted by Petitioners prior to the year 1959 (47a).

However, in the year 1959, two events of some significance to this case occurred elsewhere in Michigan. First, the Township of Muskegon, in the County of Muskegon made an assessement against Continental Motors Corporation of the same nature and for the same reason as the assessment in the instant case. Second, the Michigan Legislature enacted Act 266 of the Public Acts of 1959. This statute amended Section 14 of the General Property Tax Act (Compiled Laws of Michigan, 1948, Section 211.14) to provide that "personal property not otherwise taxed under this act which is in the possession of any person, firm or corporation using same in connection with a business conducted for profit shall be deemed the property of such person for taxation and assessed to him accordingly."

This statute for the first time conferred express statutory authority upon local taxing units to make the type of assessment and collect the type of tax at issue here. The statute did not become effective, however, *until the tax year 1961.*[2] As noted, the City of Detroit and the Township of Muskegon did not wait for the effective date of this statute but attempted to make assessment of the type contemplated thereby without express statutory authority.

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[2] Pursuant to Michigan constitutional provision, statutes become effective 90 days following adjournment of the Legislature, unless the Legislature gives them immediate effect which it did not do with respect to Act 266. (Constitution of Michigan, 1908, Art. V, Sec. 26.) Such 90 day period for the 1959 Legislature expired March 19, 1960. Taxable status of persons and property is determined on December 31 of each year for the following year. (Compiled Laws of Michigan, 1948, Section 211.2.) Thus, the first tax year controlled by the statute was 1961. The instant case involves the tax year 1959 *only* and thus presents no issue of continuing significance. (Argument, Section III, *infra*, p. 23.)

The State of Michigan had in 1959 and still has by virtue of its Constitution and its General Property Tax Act, a unified, state-wide assessment system for the assessment of real and personal property and the collection of taxes thereon. The property assessed in this case consisted principally of 675 large machines in the Plant of Respondent pursuant to certain facilities contracts between Respondent and the United States (37a-39a, 44a). Such machinery was used exclusively in the manufacture of goods for the defense establishment of the United States, particularly transmissions for tracked vehicles. It was clear, and was so stipulated, that title to all the machinery was in the United States. In fact, a substantial part of such machinery had simply been transferred from Government storage to Respondent's Plant (38a, 39a).

The machinery was assessed to Respondent on the assessment and tax rolls "as the person in possession subject to prior rights of the Federal Government" (50a). Throughout the period of assessment and the litigation, Petitioners made no effort to assess or tax the *United States*, or to impose the tax on the *personal property itself*, consistently contending that, as a sort of abstraction, Respondent had an assessable interest wholly divorced from the property itself. [Cf. Brief of Petitioners (Appellants) in the Supreme Court of Michigan, pp. 28 through 42. Certain portions of such Brief are quoted below to illustrate the theory and nature of the tax levied by Petitioners and challenged by Respondent:

> "* * * In this case such taxes were levied and imposed upon appellee [Respondent General Motors], the corporation in possession of the property (50a). It is a levy based upon an assessment *in personam* and not *in rem*. * * *" (p. 32)

> * * * This confirms our conclusion that the form and substance of our personal property tax is essentially a form of personal taxation, using the property only as a basis according to value for such taxation. * * * (p. 36)
>
> "In the case of personal property taxes, this levy or charge can only be made to the person named in the assessment roll as there is no provision in Section 7 for such levy or charge to be made against the personal property" (p. 37).[1]

This method of assessment—this disembodied tax that Petitioners sought to impose—was so foreign to the provisions and workings of the Michigan tax system that Respondent paid the taxes under protest and instituted separate actions against each collector (i.e. Petitioner City of Detroit and Petitioner County of Wayne) to recover the taxes so paid. The first and chief contention of Respondent was that the Michigan tax statutes, the Charter of the City of Detroit, and the entire Michigan tax system contained absolutely no authority for the making of the assessment and the collection of taxes thereon. (Second Amended Declaration, paragraph 6(E), (F) and (H), 9a, 10a, 11a.)

Respondent also contended, however, that if statute and charter did authorize the assessment, the assessment and taxes were void for federal Constitutional reasons in that (i) the assessment and taxes would violate the implied immunity of the United States and those with whom it deals from state and local taxation and (ii) statute, charter and

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[1] Petitioners were consistent throughout in their claim that they were not taxing property. It is an express assertion of their Consolidated Answer to Second Amended Declaration, paragraph 9, p. 27a.

administrative practice were such as to discriminate between the United States and those with whom it deals on the one hand and other tax-exempt entities and those with whom they deal on the other hand. (Second Amended Declaration, paragraphs 6(E), (K), (L) and (M), 9a, 11a-13a.)

The recitations on page 6 of the petition, under the heading "Federal Questions Raised Below" all refer to these constitutional issues presented by Respondent and do not refer to the statutory, and therefore non-federal, issue of *authority under Michigan law*.

In its pre-trial summary, the trial court noted that there were four agreed issues presented. Those four issues were stated as follows: (59a and 60a)

"Issues:

"Is this assessment made in 1959 by the City of Detroit against General Motors Corporation in the amount of $2,354,630 authorized by any statute, charter provision or ordinance?

"Are such assessments to General Motors Corporation and taxes levied thereon invalid, unconstitutional and improper because such assessment is at the full assessable value of the property ('machinery') in question?

"Do provisions of the Michigan statutes and the charter and ordinances of Detroit unconstitutionally discriminate against the United States and those with whom it deals by subjecting General Motors Corporation to this assessment and taxes levied thereon if actually such statutes, charter and ordinances grant exemption from assessment and taxation to persons in a like situation with respect to property owned by the State of Michigan and its political subdivisions and subordinate units of government?

"Did administrative practices within the City of Detroit in 1959 unconstitutionally discriminate against the United States and those with them it deals by subjecting General Motors Corporation to this assessment and taxes levied thereon if in fact the City of Detroit in that year granted exemptions from assessment and taxation to persons in a like situation with respect to property owned by the State of Michigan and its political subdivisions and subordinate units of government?"

Under Michigan practice the pre-trial summary "controls the subsequent course of the action unless modified at the trial before trial to prevent manifest injustice." [Michigan Court Rule 35, Section 4 (1945).] The pre-trial statement was never modified in this case.

In the meanwhile, litigation relating to authority under the Michigan taxing statutes then in effect to impose the 1959 assessment made by the Township of Muskegon against Continental Motors Corporation had reached the Supreme Court of Michigan in an action entitled *Continental Motors Corporation v. Township of Muskegon*, 365 Mich. 191, 112 N.W. 2d 429. On December 28, 1961, the Supreme Court of Michigan determined that the Michigan General Property Tax Act did not authorize the peculiar assessment made against the Government contractor in that case, which was identical to the assessment made against Respondent. A copy of such opinion has been furnished to this Court by Petitioners as a part of their separately filed Appendix for Appellants.

Following the decision in *Continental*, Respondent here moved for summary judgment (63a) on the sole ground that by virtue of the *Continental* decision there was no authority to make the assessment or impose the taxes.

After this Motion was briefed and argued, but before it was decided, the cases reached the trial docket and the trial court then permitted them to be tried. Following the trial, the trial court, which had reserved decision on the Motion for Summary Judgment, granted such Motion. This decision, based as it was on *Continental*, solely related to the absence of statute or charter *authority* to impose the taxes.

Petitioners then appealed to the Supreme Court of Michigan. The matters presented to that Court may be understood from the "Conclusion" of the Brief filed by Petitioners City of Detroit and County of Wayne in the Supreme Court of Michigan, from which we quote (Pages 66 and 67):

"CONCLUSION

"Summarizing, we respectfully suggest to the Court that there are two fundamental underlying questions which should be considered because if either is answer in favor of appellants [Petitioners City and County] then this Court must set aside the Summary Judgments entered below.

"The first and primary issue involved is the authority of the City of Detroit and County of Wayne to make an assessment and levy the tax here in question against appellee [Respondent General Motors]. We have shown that the provisions of the Charter of the City of Detroit authorizes the imposition of a tax against one in possession of personal property. Thus, these cases are distinguished from Continental where this Court held that the township of Muskegon was unable to point to any specific authority for the same kind of tax under the General Property Tax Act.

"The second issue is whether the factual situation as it existed in Continental is so different from the factual situation in these cases as to justify the conclusion that Continental is not controlling. * * *

> "We submit that the proposition whether General Motors, an independent contractor, is entitled to ride piggyback on the implied constitutional tax immunity of the Federal Government is not involved in this matter. That is a Federal question which has been answered in favor of Appellants by the United States Supreme Court in Murray. Any injection of this as an issue in this case begs the question of *authority*. * * *" (Emphasis in original.)

Most specifically, what was at issue in the Supreme Court of Michigan was the narrow question whether the Charter of the City of Detroit gave these Petitioners, as a matter of state law, authority to impose the peculiar type of tax here sought to be imposed, which the Township of Muskegon did not have since its powers were drawn solely from the General Property Tax Act and it had no charter. The Supreme Court of Michigan, in the instant case, held that no such authority existed for these Petitioners, just as it had earlier held for the Township of Muskegon.

The Opinion of the Supreme Court of Michigan in this case was filed February 3, 1964, and Petitioners then filed the instant Petition for Writ of Certiorari.

ARGUMENT

I.

THERE IS NO FEDERAL QUESTION OF SUBSTANCE

The foregoing Statement makes clear that the decision of the Supreme Court of Michigan was premised upon a holding that Michigan law did not authorize the assessment and taxes which Petitioners here sought to impose, as such law existed in 1959. The Supreme Court of Michigan, like the trial court, simply never reached the constitutional

questions, which would be presented only *if and after authority* in statute or charter to impose the tax had been found.

The Petitioners now seek to by-pass that issue of authority and in effect ask this Court to find such authority (and thus reach the constitutional issues) after the Court of last resort of Michigan has twice declared that no such authority exists. *The issue of authority is the real issue in this litigation and it is purely an issue of state law, finally decided adversely to Petitioners.*

As part of their attempt, Petitioners suggest (Petition, pp. 9-13) that the decision here is in conflict with the decision of this Court in *City of Detroit v. Murray Corporation*, 355 U.S. 489 (1958). No such conflict exists. *Murray* is concerned with the constitutional limits of a state's power to tax. This case is concerned with whether the State of Michigan, in 1959, invoked the full range of its power within such constitutional limits.

This distinction was noted by the Supreme Court of Michigan in both *Continental Motors Corporation v. Township of Muskegon*, 365 Mich. 191 (1961), and in this case. In each instance, the Supreme Court of Michigan observed that in the year 1959 (but first effective for the tax year 1961) the Legislature of Michigan had amended the General Property Tax Act by Act 266 of that year so as to confer the express authority to impose this type of taxation which had theretofore been lacking.

> As noted in *Continental*, the 1959 statutory amendment, applicable to 1961 and subsequent taxes, provides, with respect to facts like those in the instant case, that the property shall be deemed to be the property of the user (here the plaintiff) for taxation. Under *City of Detroit v. Murray Corporation, supra*, the imposition of the tax there-

under would encounter no Federal constitutional barrier because the Court said that it would amount to a tax on the user's possessory interest, not on United States property. Detroit's charter provision does not, in terms, undertake to tax the user's possessory interest, as does the 1959 statutory amendment, but, instead imposes the tax on the property and makes it chargeable against the possessor."

Opinion of Supreme Court of Michigan in this case, p. 239.

It is true that the end result of *Murray* and the end result of this case differ. The difference lies in the posture in which the taxing authorities come before this Court. In *Murray* this Court was confronted with a situation in which all representatives of the State of Michigan then before the Court assumed, declared and attempted to implement, state-given power to impose the tax. The question left for decision by this Court was thus solely whether that state power, so assumed, infringed the constitutional limits.

"* * * As applied—and of course that is the way they must be judged—the taxes involved here imposed a levy on a private party possessing government property which it was using or processing in the course of its own business. It is not disputed that Michigan law authorizes the taxation of the party in possession under such circumstances * * *."

"* * * Lawful possession of property is a valuable right when the possessor can use it for his own personal benefit."

"* * * Here, however, state law specifically authorizes assessment against the person in possession. And the taxing authorities were careful not to attempt to tax the Government's interest in the property."

> "We find nothing in the Constitution which compels us to strike down these state taxes."
>
> *Murray*, majority Opinion of Mr. Justice Black, pp. 493, 494, 495.

In the instant case, the taxing authorities (Petitioners) come into this Court with a definitive declaration by the Supreme Court of Michigan that its municipalities had, in 1958, no state-given power to impose the tax. "In other words there was no tax at all; it was a complete nullity; it could not be imposed." The question of constitutional immunity from tax accordingly never arises.

Petitioners next seek to suggest (Petition, pp. 13-15) that this Court's decision in *Murray* somehow requires "clarification." Three state Courts of last resort have had occasion to consider and apply the teaching of *Murray*. None of them has had any difficulty. (Michigan, in *Continental Motors Corporation v. Township of Muskegon* and in the instant case; Maryland, in *Martin Company et al. v. State Tax Commission of Maryland et al.*, 225 Md. 404, 171 A. 2d. 479 (1961); and California, in *General Dynamics Corporation v. Los Angeles County*, 51 Cal. 2d 59, 330 P. 2d 794 (1958).)

In Maryland, the Court considered in detail its own statutes, and the regulations of its own administrative agency, and concluded that as such statutes and regulations then existed, the State of Maryland had not chosen to authorize its tax collecting officers to impose a tax upon the possessor of United States-owned personal property.

The Court in Maryland reasoned:

> "The primary question in this case is the validity under Maryland tax laws of taxes assessed for the year 1958 against The Martin Company (Martin) on materials, work in process and finished products in Martin's possession under contracts with the

United States * * * the * * * assessments aggregated some $63,000,000. * * *"

(225 Md. at 407, 171 A. 2d at 480)

"On the basis of these decisions *[City of Detroit v. Murray Corporation* and its two Michigan companions decided the same day] and *American Motors Corp. v. City of Kenosha*, 356 U.S. 21, 78 S. Ct. 559, 2 L. Ed. 578 (affirming *per curiam* the decision of the Supreme Court of Wisconsin, reported in 274 Wis. 315, 80 NW 2d 363, on the authority of the Murray case), the power of a state and its political subdivisions to tax the interest of the possessor of Government-owned property seems clear. * * * The primary question before us, therefore, is not what this State can do, but what it has done."

(225 Md. at 415, 416, 171 A. 2d at 484, 485)

"We conclude that our tax laws applicable to the years in question did not provide for the taxation of Martin's right to use and possess personal property belonging to the United States. Our holding, we believe, is in accord with that of the Supreme Court of California with regard to similar tax statutes of that State involved in the General Dynamics case. * * *"

(225 Md. at 421, 171 A. 2d at 487, 488)

In California, the Court reached exactly the same result in *General Dynamics*; that is, that *Murray* definitively declares the constitutional principle that "a private contractor's right to use government property may be made the subject of a non-discriminatory tax measured by the value of the property used" (51 Cal. 2d at 62, 300 P. 2d at 796) but that California had not, as of that time, elected to impose such a tax.

[ ] The material in brackets is Respondent's explanatory note; it does not appear in the original. The same observation applies to the use of brackets wherever they appear in this Brief.

Murray plus these State court cases and the Michigan statute are completely instructive without difficulty or ambiguity. This Court has declared that constitutional power exists for the imposition of taxes upon Government contractors measured by the full value of Government property in the possession of such contractors. California, Maryland and Michigan have declared that as their law existed at the time of the cases considered, the state had not elected to invoke such constitutional power. The Legislature of Michigan has now chosen to do so.

This history is crystal clear and requires no clarification.

II.

THE DECISION BELOW IS CLEARLY CORRECT

The tax system created by the General Property Tax Act of Michigan is a complex, complete and unified system which applies equally to all municipalities and all taxpayers on a state-wide basis. This is evident from the statute and charter provisions set forth in the Appendix to this Brief.

The question of authority under Michigan law presented in *Continental* and by the instant case was therefore not an insignificant question for Michigan because the assessments there imposed were utterly foreign to the system as it then existed and such assessments were apparently made only by a few of the many assessing units in the State, principally Detroit.

By these two decisions, the Supreme Court of Michigan definitively declared that the abstraction sought by Petitioners (a personal property tax without property to be taxed) simply had no place in the structure as it then existed. It is to be remembered that throughout this litigation, Petitioners have never contended that they were in fact taxing property or taxing the owner of property;

rather they have contended they were taxing someone else "because of" property. This type of tax as to personal property was simply held not to exist in Michigan prior to the new statute in 1959.

This definitive determination was uniquely within the power and duty of the Supreme Court of Michigan to make, for it involved a construction of state statute and charter power of a municipal corporation of such state. *Alabama State Federation of Labor et al. v. McAdory, et al.*, 325 U.S. 450 (1945).

To be sure, there is a real federal constitutional principle which underlies this case, but it is one upon which all parties and all Courts have been of unanimous view. That principle is simply that a state does not have power to impose direct taxes upon the *property* of the United States itself. This is why Petitioners here did not attempt to do so and is a patently correct premise. The principle is clear from a long line of decisions of this Court, notable among which are *Van Brocklin et al. v. Tennessee et al.*, 117 U. S. 151 (1886); *United States v. Alabama*, 313 U. S. 274 (1941); *United States, et al., v. County of Allegheny*, 322 U. S. 174 (1944) and *City of Detroit v. Murray Corporation* itself.

These Petitioners have not sought to tax the property of the United States; that is not the tax at issue here.

The *nature* of the tax sought to be imposed was one upon a possessor because he was a possessor, a type of taxation for which Petitioners were required to create and did create, a new terminology, i.e., "personal taxation", and a type of taxation which simply did not exist in Michigan as to personal property prior to the 1959 amendment.

At every turn of the Michigan statute and Detroit charter, as appears from the statute and charter provisions set forth in the Appendix to this Brief, what was taxed in Michigan prior to 1959 as to personal property was the

property itself, which was made liable for collection of the tax by the lien device. What were not taxed and could not be taxed were persons, divorced from property. Those statute and charter provisions set forth in the Appendix to this Brief, and the reasoning of the Michigan Court in this case and in *Continental*, thus make clear, without need or desirability of extended discussion, that the decision was correct as a matter of state law and presents no reviewable federal question. Petitioners had no statutory or charter authority to impose the taxes.

III.

THE CASE HAS LITTLE FUTURE IMPORTANCE

Petitioners recite that they are currently engaged in other litigation involving similar issues. This statement, while true, does not tell the Court enough and hardly cloaks the instant case with significance. First, the decision of the Michigan Supreme Court here has no real bearing upon any tax year after 1959 because of the statutory amendment of 1959 which conferred express statutory authority for imposition of the tax. Second, in years prior to 1959, these petitioners did not seek to impose this type of taxation, subject to the single exception noted below of the "inventory cases."

With respect to these years prior to 1959, without known exception the cases pending in Detroit and Wayne County involve factual issues of the type considered in *American Motors Corporation v. Kyriska*, 274 Wis. 315, 80 N.W. 2d 363 (1957) and in *General Dynamics v. Los Angeles County*, *supra*, namely, whether upon a review of the entire contractual and factual relationship between the parties, it should be judicially found that title to the property (which in every instance is inventory in process of manu-

facture and subject to progress payment clauses, and not as here machinery clearly owned by the United States) is in the United States or in the defense contractor. This case does not involve nor control that issue, and it is as each of those cases is tried, it appears that the contractor is the owner, the inventory in his possession is clearly taxable.

What is left then, is a small group of 1959 and 1960 cases in which the City of Detroit and the County of Wayne attempted to impose their "personal taxation" upon the possessors of United States-owned machinery. These cases are believed to be very few in number, the instant case is believed to involve the largest, or near largest, tax payment, and the cases of course have no significance outside of the City of Detroit itself.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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May 20, 1964.

APPENDIX

CONSTITUTION, STATUTE AND CHARTER PROVISIONS

Constitution of Michigan of 1908, as amended

ARTICLE X

Finance and Taxation

Sec. 3. The legislature shall provide by law a uniform rule of taxation, except on property paying specific taxes, and taxes shall be levied on such property as shall be prescribed by law: Provided, That the legislature shall provide by law a uniform rule of taxation for such property as shall be assessed by a state board of assessors, and the rate of taxation on such property shall be the rate which the state board of assessors shall ascertain and determine is the average rate levied upon other property upon which ad valorem taxes are assessed for state, county, township, school and municipal purposes.

Sec. 4. The legislature may by law impose specific taxes, which shall be uniform upon the classes upon which they operate.

Sec. 7. All assessments hereafter authorized shall be on property at its cash value.

Sec. 21. The total amount of taxes assessed against property for all purposes in any one year shall not exceed 1 and ½ per cent of the assessed valuation of said property, except taxes levied for the payment of interest and principal on obligations heretofore incurred, which sums shall be separately assessed in all cases: Provided, that

this limitation may be increased for a period of not to exceed 5 years at any one time, to not more than a total of 5 per cent of the assessed valuation, by a ⅔ vote of the electors of any assessing district or when provided for by the charter of a municipal corporation; Provided further, that this limitation shall not apply to taxes levied in the year 1932.

Compiled Laws of Michigan, 1948, Sec. 211.24

The supervisor shall estimate, according to his best information and judgment, the true cash value of every parcel of real property and set the same down opposite such parcel. He shall also estimate the true cash value of all the personal property of each person, and set the same down opposite the name of such person. In determining the property to be assessed and in estimating such value, he shall not be bound to follow the statements of any person, but shall exercise his best judgment. Property assessed to one other than the owner shall be assessed separately from his property and shall show in what capacity it is assessed to him, whether as agent, guardian or otherwise. Two or more persons not being copartners, owning personal property in common, may each be assessed severally for his portion thereof. Undivided interests in lands owned by tenants in common, or joint tenants not being copartners, may be assessed to the owners thereof. * * *

Compiled Laws of Michigan, 1948, Sec. 211.40

And all personal taxes hereafter levied or assessed shall also be a first lien, prior, superior and paramount, on all personal property of such persons so assessed from and after the first day of December in each year for state, county, village or township taxes or upon such day as may be heretofore or hereafter provided by charter of a city or village, and so remain until paid, which said tax liens shall take precedence over all other claims, encumbrances and liens upon said personal property whatsoever, whether created by chattel mortgage, title retaining contract, execution, or upon any other final process of a court, attachment, replevin, judgment or otherwise; and whether such liens, claims and encumbrances created by chattel mortgage, title retaining contract, execution or upon any other final process of a court, attachment, replevin, judgment or otherwise, become effective prior to the effective date of this act or subsequent thereto, and no transfer of personal property assessed for taxes thereon shall operate to divest or destroy such lien, except where such personal property is actually sold in the regular course of retail trade. The personal property taxes hereafter levied or assessed by any city or village shall be a first lien, prior, superior and paramount to any other claims, liens and encumbrances whatsoever upon the personal property assessed as herein provided, any provisions in the charter of such cities or villages to the contrary notwithstanding.

Compiled Laws of Michigan, 1948, Sec. 211.47

If any person, firm or corporation shall neglect or refuse to pay any tax assessed to him or them, the township or city treasurer, as the case may be, shall collect the same by seizing the personal property of such person, firm or corporation, to an amount sufficient to pay such tax, fees and charges for subsequent sale, wherever the same may be found [in the state], and from which seizure no property shall be exempt: * * * If the property so distrained cannot be sold for want of bidders, and in such cases only, the treasurer shall return a statement of the fact, and such tax shall be returned as unpaid. The township treasurer, if otherwise unable to collect a tax on personal property, may sue the person, firm or corporation to whom it is assessed, in the name of the township, village or city, and garnishee any debtor or debtors of such person, firm or corporation. The tax roll shall be prima facie evidence of the debt sought to be recovered: Provided, That when any person having possession of the personal property of any other person, firm or corporation shall be assessed for such property and shall be obliged to pay the taxes thereon, such person, firm or corporation so paying the taxes, may recover of the person, firm or corporation for whose benefit the taxes were paid, the money so paid, with the interest thereon, in an action of assumpsit: * * *.

Act 266, Public Acts of Michigan of 1959

Section 14 of Act No. 206 of the Public Acts of 1893, as last amended by Act No. 209 of the Public Acts of 1958, being section 211.14 of the Compiled Laws of 1948, is hereby amended to read as follows: * * *

Fifth * * * Personal property mortgage or pledged shall be deemed the property of the person in possession thereof and may be assessed to him, and personal property not otherwise taxed under this act which is in the possession of any person, firm or corporation using same in connection with a business conducted for profit shall be deemed the property of such person for taxation and assessed to him accordingly; * * *.

Charter of the City of Detroit, 1918, as amended

Title VI

CHAPTER II

Sec. 1. All real and personal property within the city subject to taxation by the laws of this state shall be assessed at its true cash value by the board of assessors herein provided. Assessments shall be made according to assessment districts, the boundary lines of which shall conform to ward boundaries as established from time to time by the common council. There shall be an assessment roll in book form for each such district. All taxes upon personal property may be assessed in any district, whether the person assessed is a resident of such district or not.

Sec. 5. The common council, after receiving said assessment rolls, shall at 10 o'clock a.m. of the first succeeding day, proceed to consider the same, and any person who has previously complained to the board of assessors as

herein provided in section four, considering himself aggrieved by the assessment of his property and the decision of the board of assessors thereon, may appeal to the council; * * *

CHAPTER IV

SEC. 1. All city taxes shall be due and payable on the fifteenth day of July in each year, and on that date shall become a lien on the property taxed. The owners or occupants or parties in interest to any real estate assessed hereunder, shall be liable to pay such taxes and all assessments levied in accordance herewith. The owners or persons in possession of any personal property shall pay all taxes assessed thereon.

SEC. 26. * * * All city taxes upon personal property shall become on said fifteenth day of July a lien thereon and so remain until paid, and no transfer of the personal property assessed shall operate to divest or destroy such lien.

SEC. 27. All city taxes upon personal property and real estate and special assessments thereon in addition to being a lien upon the property assessed shall become a debt against the owner from the time of the listing of the property for assessment, and shall remain a debt against the owner of the property or his estate after his death, until the same are paid.